**Conditions regarding trust and trustees.**

**302.** (1) The fund and the trust shall be established in India.

(2) The trust shall have at least two trustees, provided that a company as defined in section 2(*20*) of the Companies Act, 2013 (18 of 2013) shall not be appointed as a trustee without the prior approval of the approving authority.

(3) The trustees of the fund shall be a resident in India and any trustee who leaves India permanently shall vacate his office.

**Investment of fund moneys.**

**303.** (1) All moneys contributed to the fund, or received or accrued by way of interest, or otherwise, may be-

(*a*) deposited in a Post Office Savings Bank Account in India; or
(*b*) deposited in a current account or a savings account with any scheduled bank; or
(*c*) utilised in accordance with rule 307 for making payments under a scheme of insurance or for purchase of annuities referred to in that rule;

(2) Any funds not deposited or used as mentioned in sub-rule (1) shall be invested in accordance with the notification of the Ministry of Finance, (Department of Financial Services) number F. No. 11/14/2013-PR, dated the 2nd March, 2015 published in the Gazette of India, Extraordinary, Part I, Section 1 as amended from time to time.

**Admission of directors to a fund.**

**304.** A director of a company, as defined in section 2(*20*) of the Companies Act, 2013 (18 of 2013), may only receive benefits from the fund, if he is a whole-time *bona fide* employee of the company and does not beneficially own shares in the company carrying more than 5% of the total voting power.

**Ordinary annual contributions.**

**305.** The yearly contribution of the employer to a fund for each employee shall not exceed 27% of their salary for each year as reduced by any contributions the employer made to a provident fund for the same employee during that year, whether recognised or not.

**Initial contributions.**

**306.** For purposes of the deduction allowable under section 29(1)(*a*), subject to any condition which the Board may think fit to specify, the initial contribution of the employer to a superannuation fund for the past services of an employee shall not exceed the total of 27% of the salary of the employee for each year of past service, as reduced by the contributions of the employer to a provident fund (recognised or unrecognised), if any, for the same employee for each such year.

**Scheme of insurance or annuity.**

**307.** (1) For the purpose of providing the annuities for the beneficiaries, the trustees shall—

(*a*) enter into a scheme of insurance with the Life Insurance Corporation established under the Life Insurance Corporation Act, 1956 (31 of 1956) or any other insurer as defined in section 2(*58*) of the Act; or

(*b*) accumulate the contributions in respect of each beneficiary and purchase an annuity from the said Life Insurance Corporation of India or any other insurer at the time of the retirement or death of each employee, or on his becoming incapacitated prior to retirement.

(2) The provisions of sub-rule (1) shall not apply to a fund established or constituted, under an irrevocable trust, which has its sole purpose to make payment of pension or family pension, in accordance with the rules or regulations made under the following enactments:—

(*a*) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970); or
(*b*) the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980); or
(*c*) the State Bank of India Act, 1955 (23 of 1955); or
(*d*) the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959); or
(*e*) the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981); or
(*f*) the Industrial Development Bank of India Act, 1964 (18 of 1964);
(*g*) the Export-Import Bank of India Act, 1981 (28 of 1981); or
(*h*) the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984); or
(*i*) the Small Industries Development Bank of India Act, 1989 (39 of 1989); or
(*j*) the National Housing Bank Act, 1987 (53 of 1987).

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**Commutation of annuity.**

**308.** Any payment in commutation of annuity shall not exceed—

(*a*) in a case where the employee receives any gratuity, the commuted value of one-third of the annuity which he is normally entitled to receive, and

(*b*) in any other case, the commuted value of one-half of such annuity, such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality.

**Beneficiary not to have any interest in insurance and employer not to have any interest in moneys of fund.**

**309.** (1) No beneficiary shall have any interest in any insurance policy taken out by the trustees under the rules of a fund and he shall be entitled only to an annuity from the fund.

(2) No money belonging to the fund shall be receivable by the employer under any circumstances nor shall the employer have any lien or charge on the fund.

**Penalty, where employee assigns or charges interest in fund.**

**310.** Where an employee assigns or creates a charge upon his beneficial interest in a fund, the Assessing Officer shall give notice to the employee that if he does not secure the cancellation of the assignment or charge within two months of the date of receipt of the notice, the consideration received for such assignment or charge shall be deemed to be income received by him in the tax year in which the fact became known to the Assessing Officer and shall be assessed, accordingly.

**Arrangements on winding up, etc., of business.**

**311.** When the business of the employer is to be closed or discontinued, the trustees shall, with the prior approval of and subject to the conditions imposed by the approving authority, make suitable arrangements for providing annuities to current employees, or to their widows, children, or dependents in the event of their death.

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**Arrangements for winding up, etc., of fund.**

**312.** Any arrangements for the winding up of the fund or for its amalgamation with another fund shall be subject to the prior approval of, and subject to such conditions as may be imposed by the approving authority.

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**Application of approval.**

**313.** Every application for approval of a Superannuation fund under paragraph 4(1) of Part B of Schedule XI to the Act shall be made in Form No. 188 and shall be verified in the manner indicated therein.

**Amendment of rules, etc., of fund.**

**314.** No alteration in the rules, constitution, objects or conditions of an approved fund shall be made without the prior approval of the approving authority.

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**Appeal under paragraph 9(1) of Part B of Schedule XI to the Act in case of superannuation fund.**

**315.** An appeal under paragraph 9(1) of Part B of Schedule XI to the Act shall be made in Form No. 187 and shall be verified in the manner indicated therein and shall be accompanied by a fee of Rs. 1,000.

**Definitions for purposes of rules 317 to 329.**

**316.** For the purposes of rules 317 to 329, the expressions-

(*a*) "approving authority" means the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner;
(*b*) "beneficiary" means a person referred to in paragraph 3(*b*) of Part B of Schedule XI to the Act for whom provision of gratuity is made;
(*c*) "fund" means a "gratuity fund"; and
(*d*) "trust" means the trust under which the fund is established and the expression "trustee" means a trustee thereof.

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**Conditions regarding trust and trustees**.

**317.** (1) The fund and the trust shall be established in India.

(2) The trust shall have at least two trustees provided that a company as defined in section 2(*20*) of the Companies Act, 2013 (18 of 2013) shall not be appointed as a trustee without the prior approval of the approving authority.

(3) The trustees of the fund shall be a resident in India and any trustee who leaves India permanently shall vacate his office.

**Investment of fund moneys.**

**318.** (1) All moneys contributed to the fund or received or accrued by way of interest, or otherwise, may be—

(*a*) deposited in a Post Office Savings Bank Account in India; or
(*b*) deposited in a current account or in a savings account with any scheduled bank; or
(*c*) utilised for the purpose of making contributions under Group Gratuity Scheme entered into with the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956) or any other insurer as defined in section 2(*58*) of the Act;

(2) Any funds not deposited or used as mentioned above shall be invested in accordance with the notification of the Ministry of Finance, (Department of Financial Services) number F. No. 11/14/2013-PR, dated the 2nd March, 2015 published in the Gazette of India, Extraordinary, Part I, section 1, as amended from time to time.

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**Nomination.**

**319.** (1) An employee may be allowed by the trustees of the gratuity fund to make a nomination in Form 184 or in a form as near thereto as may be necessary conferring on one or more persons, the right to receive the amount of gratuity in the event of his death, before that amount becomes payable or, having become payable, has not been paid.

(2) If an employee nominates more than one person under sub-rule (1), he shall, in his nomination, specify the amount or share payable to each of the nominees in such manner as to cover the whole of the amount of gratuity that may be payable in the event of his death.

(3) Where an employee has a family at the time of making a nomination, the nomination shall be in favour of one or more persons belonging to his family and any nomination made by such employee in favour of a person not belonging to his family, shall be invalid.

(4) If at the time of making a nomination, the employee has no family, the nomination may be in favour of any person or persons, but if the employee subsequently acquires a family, such nomination shall forthwith be deemed to be invalid and the employee may be allowed to make a fresh nomination in favour of one or more persons belonging to his family.

(5) A nomination made by an employee may, at any time, be modified by him after giving a written notice to the trustees of his intention of doing so in Form 184 or in a form as near thereto as may be and, if, the nominee predeceases the employee, the interest of the nominee shall revert to the employee, who may thereupon make a fresh nomination in respect of such interest.

(6) A nomination or its modification shall take effect to the extent it is valid on the date on which it is received by the trustees.

(7) Where the nomination is wholly or partly in favour of a minor, the member may, for the purposes of this rule appoint a major person of his family, to be the guardian of the minor nominee in the event of the member predeceasing the nominee and the guardian so appointed, and where there is no major person in the family, the member may, at his discretion, appoint any other person to be a guardian of the minor nominee.

(8) For the purposes of this rule, "family", in relation to an employee, shall be deemed to consist of -

(*a*) in the case of a male employee, himself, his wife, his children, whether married or unmarried, his dependent parents and the dependent parents of his wife and the widow and children of his predeceased son, if any; and

(*b*) in the case of a female employee, herself, her husband, her children, whether married or unmarried, her dependent parents and the dependent parents of her husband and the widow and children of her predeceased son, if any:

**Admission of directors to a fund.**

**320.** Where the employer is a company as defined in section 2(*20*) of the Companies Act, 2013 (18 of 2013), a director of the company may be admitted to the benefits of the fund only if he is a whole time *bona fide* employee of the company and does not beneficially own shares in the company carrying more than 5% of the total voting power.

**Ordinary annual contributions.**

**321.** The ordinary annual contribution by the employer to a fund shall be made on a reasonable basis, as may be approved by the approving authority, having regard to the length of service of each employee concerned, but such contribution shall not exceed 8⅓% of the salary of each employee during each year.